

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

AGENCY ONE INSURANCE, INC.,  
PAMELA A SIROKY,

Plaintiffs,

vs.

WESTPORT INSURANCE CORP.,

Defendant.

**8:13CV78**

**MEMORANDUM AND ORDER**

The above-captioned case was filed on March 6, 2013, and scheduled to be tried on January 13, 2014, ([Filing No. 24](#)); then June 18, 2014, ([Filing No. 34](#)); and now September 22, 2014. ([Filing No. 44](#)). All parties intend to move for summary judgment.

During a conference call held on May 29, 2014, the court was advised that Plaintiffs' claims in this litigation were assigned to Metropolitan Property and Casualty Insurance Company as part of a settlement agreement in an Iowa federal case. ([Filing No. 67-1](#)). That assignment occurred at least thirty (30) days ago, but Metropolitan has filed nothing of record stating that pursuant to an assignment of rights, it now claims an interest in this litigation.

In the Iowa case, Metropolitan was represented by both Iowa counsel, (John C Gray, Heidman Law Firm, LLP, 1128 Historic 4th Street, PO Box 3086, Sioux City, IA 51102), and by Nebraska counsel (Peter J Leo, Koley Jessen, PC, LLO, 1125 S. 103rd Street, Suite 800, Omaha, NE 68124). Metropolitan apparently intends to hire different counsel to pursue the claims raised in Agency One's complaint in this forum, but it has not retained Agency One's current Nebraska counsel to continue this litigation, and no one else has entered an appearance in this case on Metropolitan's behalf.

Metropolitan's lackadaisical attitude disrupts this court's scheduling processes; wholly ignores its scheduling orders; and places this court, Agency One and Siroky's current counsel of record, and Westport Insurance in the untenable position of wondering if this case will be litigated and, if so, when and by whom.

Accordingly,

IT IS ORDERED:

- 1) The summary judgment deadline is set aside pending further order of the court.
- 2) On or before **June 20, 2014**, Metropolitan Property and Casualty Insurance Company, the assignee of Plaintiffs' claims, shall formally enter this case as a party and have an attorney enter an appearance on its behalf, in the absence of which this case will be dismissed, with prejudice, for want of prosecution, and without further notice.
- 3) The clerk shall mail and email a copy of this memorandum and order to Metropolitan Property and Casualty Insurance Company's counsel of record in *Metropolitan Property and Casualty Insurance Company v. Agency One Insurance, Inc. and Pamela A Siroky*, 5:12CV4050 (N.D. Iowa):

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June 6, 2014.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge